UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 April 2009*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7,9-17,20-28 and 34-45* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-7,9-17,20-28 and 34-45* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   This action is issued in response to applicant's RCE filed April 20, 2009.

2.   Claims 1-7 and 9-45 are presented. No claim added and claims 8, 18, 19, and

29-33 are cancelled.

3.   Claims 1-7, 9-17, 20-28, and 34-45 are pending.

4.   Applicant's arguments filed April 20, 2009, have been fully considered but they

are not persuasive.

Continued Examination Under 37 CFR 1.114

5.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed April 20,

2009 has been entered.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

7.   **Claims 1-3, 9-10, 16-17, 20-23, 26-28, and 34-45 are rejected under 35 U.S.C.
103(a) as being unpatentable over Flanagin (US Patent No. 6,128,661) filed April
10, 1998, in view of Kotzin (US Patent Application No. 20050198376) provisional
filed January 2, 2004.**

Regarding Claims 1, 21, and 28, Flanagin discloses a method of
transferring service settings to a first device from a second device, wherein the
first and second devices each have the same predetermined hierarchical data
structure, comprising:

sending a data transfer request identifying a first portion of the hierarchical
data structure from the first device to the second device (columns 2-3, lines 66-
67 and 1-19, respectively, Flanagin), the first portion comprising data descriptive
of service settings for a first service (column 4, lines 7-18, Flanagin). However,
Flanagin is not as detailed with the service settings being provisioned by a
service provider. On the other hand, Kotzin discloses provisioning by the service
provider ([0021-0022], Kotzin). Flanagin and Kotzin are analogous art because
they are from the same field of endeavor of transferring information from one
electronic device to another. It would have been obvious to one of ordinary skill in
the art at the time of the invention to incorporate Kotzin's teachings into the
Flanagin system. A skilled artisan would have been motivated to combine as
suggested by Kotzin at paragraphs [0006-0007], in order to allow the content to
be transferred with ease in an intuitive manner, such that it can be beneficial for

the owner. Therefore, the combination of Flanagin in view of Kotzin disclose

receiving at the first device the data descriptive of service provider provisioned

service settings stored at the first portion of the hierarchical data structure of the

second device from the second device (column 4, lines 7-22, Flanagin); storing

the received data at the first portion of the hierarchical data structure of the first

device (column 3, lines 1-13, Flanagin); and using, at the first device, the data

stored at the first portion of the hierarchical data structure as settings for a first

service (column 4, lines 7-11, Flanagin).

Regarding Claims 2 and 22, the combination of Flanagin in view of Kotzin,

disclose a method wherein receiving data comprises receiving a data file stored

at the first portion of the hierarchical data structure that is associated with an

identifier stored in a first smart card ([0028], Kotzin)[1].

Regarding Claims 3 and 23, the combination of Flanagin in view of Kotzin,

disclose a method wherein the received data file comprises the identifier ([0023],

Kotzin).

Regarding Claim 9, the combination of Flanagin in view of Kotzin, disclose

a method wherein the received data comprises settings controlled by the service

provider of the first service ([0021], Kotzin).

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[1] Examiner Notes: Examples of memory that is stored within the devices are subscriber identity module
(SIM card), flash card, and secure digital card (see [0023]).

Regarding Claim 10, the combination of Flanagin in view of Kotzin,

disclose a method wherein the received data includes data identifying user

selections made during user configuration of the first service ([0018], Kotzin).

Regarding Claim 16, the combination of Flanagin in view of Kotzin, and

further in view of Kotzin, disclose a method further comprising forming a direct

connection between first and second devices and using the direct connection for

sending the data transfer request and receiving data from the second device to

the first device ([0038], Kotzin).

Regarding Claim 17, the combination of Flanagin in view of Kotzin, and

further in view of Kotzin, disclose a method wherein the direct connection is a

wireless connection ([0038], Kotzin).

Regarding Claim 20, the combination of Flanagin in view of Kotzin,

disclose a method of transferring service settings to a first device from a second

device, wherein the first and second devices each have the same predetermined

hierarchical data structure, comprising a first portion for storing settings for

accessing a first service and a second portion for storing settings for accessing a

second service:

sending a data transfer request identifying a first portion of the hierarchical data structure from the first device to the second device (columns 2-3, lines 66-67 and 1-19, respectively, Flanagin);

transferring the data content stored at the identified first portion of the hierarchical data structure from the second device to the first device (column 4, lines 7-22, Flanagin), the data content comprising data descriptive of service provider provisioned service settings for the first service ([0021-0022], Kotzin);

storing the transferred data content at the first portion of the hierarchical data structure of the first device (column 3, lines 1-13, Flanagin);

sending a data transfer request identifying a second portion of the hierarchical data structure from the first device to the second device (columns 2-3, lines 66-67 and 1-19, respectively, Flanagin);

transferring the data content stored at the identified second portion of the hierarchical data structure from the second device to the first device (column 4, lines 7-22, Flanagin), the data content comprising data descriptive of service provider provisioned service settings for the second service ([0021-0022], Kotzin);

storing the transferred data content at the second portion of the hierarchical data structure of the first device (column 3, lines 1-13, Flanagin); and

using, at the first device, the settings stored at the first portion of the hierarchical data structure as settings for the first service and the settings stored

at the second portion of the hierarchical data structure as settings for the second

service (column 4, lines 7-11, Flanagin).

Regarding Claims 26,34,40, and 43 the combination of Flanagin in view of

Kotzin, disclose a communications device comprising:

a radio transceiver ([0040], Kotzin);

a memory for storing data according to a predetermined hierarchical data

structure (column 3, lines 1-5 and column 7, linesn18-22, Flanagin);

a processor for reading data from the memory (column 7, lines 23-26,

Flanagin), wherein the data read from the first portion of the hierarchical data

structure is usable for providing a telecommunications service (column 4, lines 7-

24, Flanagin) via the radio transceiver ([0040], Kotzin), the data comprising data

descriptive of service provider provisioned service settings for the

telecommunications service ([0021-0022], Kotzin);

a wireless receiver for receiving a data transfer request identifying the first

portion of the hierarchical data structure, wherein the processor responds to the

data transfer request to read data from the first portion of the hierarchical data

structure ([0018], [0023], lines 23-24, and [0044], Kotzin); and

a wireless transmitter for transmitting the data descriptive of service

provider provisioned service settings for the telecommunications service, the

data read from the memory in response to the data transfer request ([0018],

[0023], lines 23-24, and [0044], Kotzin).

Regarding Claims 27 and 35, the combination of Flanagin in view of
Kotzin, disclose a communications device further comprising a smart card
housing for a smart card ([0023], Kotzin) that enables the device to participate in
a telecommunications network ([0041], Kotzin), wherein the processor is
operable to read data from the first portion of the hierarchical data structure that
depends upon the identity of the housed smart card ([0028], Kotzin).

Regarding Claims 36 and 37, the combination of Flanagin in view of
Kotzin, disclose a record medium embodying a computer program comprising
computer program instructions for causing a computer to perform the method
(column 5, lines 4-8, Flanagin).

Regarding Claims 38,39,42, and 45, the combination of Flanagin in view
of Kotzin, disclose a communications device where said radio transceiver
comprises a cellular radio transceiver ([0023] and [0040], Kotzin).

Regarding Claims 41 and 44, the combination of Flanagin in view of
Kotzin, disclose the communication device where the data of said at least one file
further comprises data that identifies selections made by a user during
configuration of the telecommunications service ([0018], Kotzin).

8.   Claims 5-7,13-15, and 25, are rejected under 35 U.S.C. 103(a) as being

unpatentable over Flanagin (US Patent No. 6,128,661) filed April 10, 1998, in view

of Kotzin (US Patent Application No. 20050198376) provisional filed January 2,

2004, and further in view of Kock (US Patent Application No. 20040185885) filed

January 30, 2004.

Regarding Claims 5 and 6, the combination of Flanagin in view of Kotzin,

disclose all of the claimed subject matter as stated above. However, Flanagin in

view of Kotzin, are silent with respect to the receivied data file being

automatically used, at the first device, as settings for a first service when the first

smart card is used with the first device. On the other hand, Kock discloses the

receivied data file being automatically used, at the first device, as settings for a

first service when the first smart card is used with the first device ([0052], Kock).

Flanagin, Kotzin, and Kock are analogous art because they are from the same

field of endeavor of communication architecture on mobile devices. It would have

been obvious to one of ordinary skill in the art at the time of the invention to

incorporate Kock's teachings into the Flanagin and Kotzin system. A skilled

artisan would have been motivated to combine in order to provide a system that

allows data messages to be exchanged between devices having distinct

capabilities while avoiding the need to convert the data messages.

Regarding Claim 7, the combination of Flanagin in view of Kotzin, and

further in view of Kock, disclose a method further comprising transferring a smart

card from the second device to the first device before the step of using the data

stored as settings for the first service ([0052], Kock).

Regarding Claim 13, the combination of Flanagin in view of Kotzin, and

further in view of Kock, disclose a method wherein the first and second devices

are mobile telephones ([0040], Kock).

Regarding Claim 14, the combination of Flanagin in view of Kotzin, and

further in view of Kock, disclose a method wherein the first service is a

telecommunications service (Abstract, Kock).

Regarding Claim 15, the combination of Flanagin in view of Kotzin, and

further in view of Kock, disclose a method wherein the first service is one of:

messaging, internet access or email ([0041], Kock).

Regarding Claim 25, the combination of Flanagin in view of Kotzin, and

further in view of Kock, disclose a method further comprising using, at the second

device, the settings stored at the first portion of the hierarchical data structure as

settings for the first service (column 3, lines 44-52, Flanagin) when the first smart

card is used with the second device ([0052], Kock).

9. **Claims 4 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flanagin (US Patent No. 6,128,661) filed April 10, 1998, in view of Kotzin (US Patent Application No. 20050198376) provisional filed January 2, 2004, and further in view of Mirouze (US Patent Application No. 20040023664) filed July 3, 2002.**

Regarding Claims 4 and 24, the combination of Flanagin in view of Kotzin, disclose all of the claimed subject matter as stated above. However, Flanagin in view of Kotzin, are silent with respect to the identifier being an international mobile subscriber identity. On the other hand, Mirouze discloses the identifier being an international mobile subscriber identity ([0085], Mirouze). Flanagin, Kotzin, and Mirouze are analogous art because they are from the same field of endeavor of mobile communication devices. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Mirouze's teachings into the Flanagin and Kotzin system. A skilled artisan would have been motivated to combine as suggested by Mirouze at [0005], to offer mobile users functions that are more ergonomic than those offered by a simple mobile terminal.

10. **Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flanagin (US Patent No. 6,128,661) filed April 10, 1998, in view of Kotzin (US**

Patent Application No. 20050198376) provisional filed January 2, 2004, and further in view of Cooper (US Patent No. 5,961,588) Filed February 21, 1997.

Regarding Claim 11, the combination of Flanagin in view of Kotzin, disclose all of the claimed subject matter as stated above. However, Flanagin in view of Kotzin, are silent with respect to the user of the first device unable to amend the received data. However, Cooper discloses the user of the first device unable to amend the received data (column 2, lines 9-12, Cooper). Flanagin, Kotzin, and Cooper are analogous art because they are from the same field of endeavor of telecommunication system/wireless systems. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Cooper's teachings into the Flanagin and Kotzin system. A skilled artisan would have been motivated to combine in order to prohibit an unauthorized user from altering the data. Thereby, making sure the information is maintained and proper.

11.   **Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flanagin (US Patent No. 6,128,661) filed April 10, 1998, in view of Kotzin (US Patent Application No. 20050198376) provisional filed January 2, 2004, and further in view of Novak (US Patent No. 6,882,659) provisional filed May 10, 2000.**

Regarding Claim 12, the combination of Flanagin in view of Kotzin, disclose all of the claimed subject matter as stated above. However, Flanagin in view of Kotzin, are silent with respect to the first device being an OBEX client, the second device being an OBEX server, and the data transfer request comprising a GET request packet. On the other hand, Novak discloses the first device being an OBEX client, the second device being an OBEX server (columns 4-5, lines 57-67 and 1-12, respectively, Novak), and the data transfer request comprising a GET request packet (column 5, lines 50-63, Novak). Flanagin, Kotzin, and Novak are analogous art because they are from the same field of endeavor of synchronization of mobile devices. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Novak's teachings into the Flanagin and Kotzin system. A skilled artisan would have been motivated to combine in order to provide a communications protocol that facilitates the exchange of binary objects between devices. As a result, as suggested by Novak at column 3, lines 14-21, allowing for a desirable synchronization protocol that operates in a connectionless environment.

Response to Arguments

Applicant argues, Flanagin does not disclose "wherein the first and second devices each have the same predetermined hierarchical data structure", "a data transfer request identifying a first portion of the hierarchical data structure", nor

"storing the received data at the first portion of the hierarchical data structure of the first device".

Examiner respectfully disagrees. Flanagin teaches mobile devices and a desktop computer, wherein the mobile devices and desktop computer includes application programs and a store (used to store objects), wherein it is desirable that at least some of the objects on the respective stores be transferred in order for the user to access the same information regardless as to whether the mobile device or desktop computer is being used. Also, Flanagin teaches wherein the mobile devices include the same application programs as well as to contain one or more of the application programs which correspond to the application programs residing on the desktop computer (see col.3, lines 1-20). Thus, disclosing the device each having the same hierarchical data structure. Also see Figure 1. Next, Flanagin teaches transferring data or objects from one device to another and clearly the data to be transferred is identified before being transferred. Lastly, Flanagin teaches the use of a store, which is used to store objects, data files, and database used by the application programs (see col.3, lines 1-13 and 44-55).

Applicant argues, Kotzin does not disclose that service settings are being provisioned by a service provider.

Examiner respectfully disagrees. To begin, Flanagin was original relied upon for the disclosure of the service settings (see col.3, lines 48-52 and col.4, lines 7-22). However, Kotzin was incorporated to teach that the service settings were provisioned by

the service provider, and this is taught at paragraphs [0021-0022], wherein "*The second device then retrieves the content from either the first device or the content provide...the source may also depend on the operations of the <u>service provider serving the device</u> which is receiving or sending the <u>content</u>...If the content is a relatively small set of information, such as a ring tone, contact information or an icon for example, then the content may be transferred directly from the first device to the second device. Larger files, such as media and multimedia files including audio, music, and motion pictures may be transferred from the content provider*". The preceding excerpt teaches that a service provider or content provider is the one provisioning off the service settings from one device to another. Thus, the combination of Flanagin in view of Kotzin, disclose service settings and provisioning the service settings by a service provider. Even further, in response to applicant's specific argument that the "content" used in Kotzin is not concerned with the claimed subject matter of "service settings" is improper since for one it would have been obvious to one of ordinary skill in the art to understand that the service provider described within Kotzin would have the ability to provision the service settings described within Flanagin. Also, for argument sake Kotzin does discuss an example of the content being larger files such as media and multimedia files including audio, music, and motion pictures (see [0022]), wherein the multimedia files correspond to the service settings as described within applicant's own specification as being for multimedia messaging (see [0023-0024]); since it is understood by one of ordinary skill in the art at the time of the invention that if the reference can have multimedia files of different types of information/data then one of the types of information could also be multimedia messaging.

Applicant argues Kotzin has to do with bar codes and scanners, and it is not seen what relevance operations of bar codes and scanners have to do with the subject matter of claim 2.

Examiner respectfully disagrees. Paragraph [0028] discusses the bar codes and scanning as a way of disclosing the operation of reading data from the device and housing the information within the memory card (i.e. smart card). Thus, the invention as a whole is to allow transferring of information from one electronic device to another (see ABSTRACT), and so the use of the scanners and bar codes are merely an example of one way of receiving the data from the data structure and identifying the housed smart card in order to determine the information.

Applicant argues it is not seen what is used to identify the "uniquely identifiable set of information" within the Kotzin reference.

Examiner respectfully disagrees. To begin, Kotzing states "*the uniquely identifiable set of information can be associated with the content by attaching the uniquely identifiable set of infoamtion to the content in a single file*" (see [0019]), thus showing an example of a data file. Next, paragraph [0023] of Kotzin is relied upon for the teachings of a uniquely identifiable set of information that is stored in a SIM card, flash card, or other removable memory; thus showing that there is an identifier associated with the received data file in a first smart card as required by claim 2 (of which claim 3 is dependent upon).

Applicant argues Kotzin has no relevance to "settings controlled by the service provider of the first service".

Examiner respectfully disagrees. To begin, Kotzin discusses "the operations of the service provider servicing the device which is receiving or sending the content" (see [0022]), wherein the service provider is in control of the content being served to and from the device. Next, Kotzin discusses a DRM agent and a rights object, wherein the DRM agent manages the permissions associated with the content, which is stored in a rights object. For example, the DRM agent allows the first device to transfer the content to another device; and the management of the content must comply with the rights stored in the rights object associated with the content. Therefore, the rights object and the DRM agents together <u>control</u> how the content is managed (see [0025]). Thus, Kotzin does in fact disclose the above argued feature.

Applicant argues, Kotzin does not disclose "wherein the received data includes data identifying user selections made during user configuration of the first service", because Kotzin speaks in generalities and is not specific enough.

Examiner respectfully disagrees. The relied upon paragraph [0018] of Kotzin specifically states "to transfer the content between a first device and a second device, the user selects the desired content to be transferred". It is clear that the user selects what is to be received. Thus, it is obvious that since Flanagin supports each mobile device being individually configured as desired by the user, that the combination of the references teaches the invention as a whole.

Applicant argues, with respect to claim 27, what relevance operations performed using scanners and bar codes have to do with the subject matter of the specified claim, *wherein the processor is operable to read data from the first portion of the hierarchical data structure that depends upon the identity of the housed smart card.*

Examiner respectfully disagrees. Paragraph [0028] discusses the bar codes and scanning as a way of disclosing the operation of reading data from the device and housing the information within the memory card (i.e. smart card). Thus, the invention as a whole is to allow transferring of information from one electronic device to another (see ABSTRACT), and so the use of the scanners and bar codes are merely an example of one way of reading the data from the data structure and identifying the housed smart card in order to determine the information.

Applicant argues it is not seen within Kock where "the received data file is usable, at the first device, as settings for a first service when the first smart card "s used with the first device".

Examiner respectfully disagrees. Kock teaches a SIM card that has been moved from one mobile device to another, wherein the status list may need to be updated for both mobile devices (see [0052]). This means that when a SIM card is input into a mobile device the settings for the device take on the characteristics/settings that are specified on the SIM card; thus disclosing the usability of the smart card. Lastly, the

service being for example the messaging capabilities. As a result fully teaching the

above argued feature.

Applicant argues, Cooper does not teach "wherein the user of the first

device is unable to amend the received data" because the operations performed

in Cooper are performed by a client station and not by a user.

Examiner respectfully disagrees. Cooper teaches that a user uses the client

station and executes control functions in the client station (see col.12, lines 47-57).

Thus, since the user is operating the client and since the client is unable to alter the

data that also means that the user is unable to alter/amend the data.

Points of Contact

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to CHELCIE DAYE whose telephone number is (571) 272-

3891. The examiner can normally be reached on M-F, 7:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Apu Mofiz can be reached on 571-272-4080. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Chelcie Daye
Patent Examiner
Technology Center 2100
July 1, 2009

/Etienne P LeRoux/
Primary Examiner, Art Unit 2161